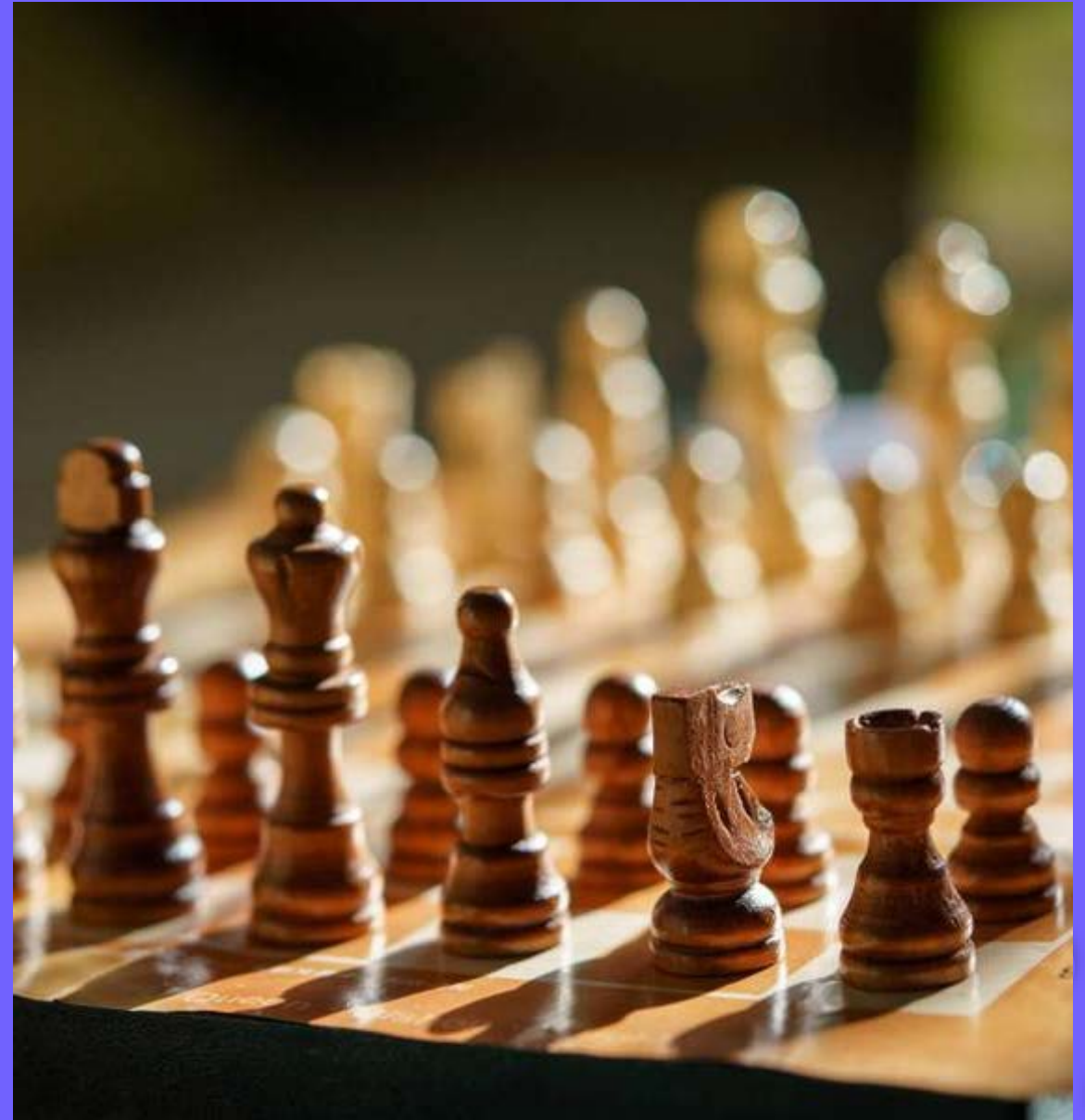


# The Consequences of Convictions in Occupational and Professional Licensing Cases

Sean Gavin, Administrative Law Judge  
Jennifer Mouzis, Criminal Defense  
Attorney





# Agenda

- + Licensing Entities
- + Authority to Deny or Discipline Licenses for Convictions
- + Notification Requirement
- + What it means for a conviction to be “substantially related”
- + Rehabilitation
- + Expungement



# Licensing Entities

Occupational and licensing entities exist for the purpose of public protection. (*See generally*, Bus. & Prof. Code, § 101.6.)

# Licensing Entities

Occupational and licensing entities exist for the purpose of public protection. (*See generally*, Bus. & Prof. Code, § 101.6.)

Part of protecting the public includes regulating licensees through disciplinary actions.

# Licensing Entities

Occupational and licensing entities exist for the purpose of public protection. (*See generally*, Bus. & Prof. Code, § 101.6.)

Part of protecting the public includes regulating licensees through disciplinary actions.

For example, licensing entities “provide a means for redress of grievances by investigating allegations of unprofessional conduct, incompetence, fraudulent action, or unlawful activity brought to their attention by members of the public and institute disciplinary action against persons licensed or registered under the provisions of this code when such action is warranted.” (*Ibid.*)

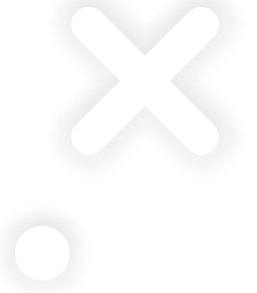
# Licensing Entities

The Department of Consumer Affairs

The Department of Real Estate

The Department of Insurance

# Licensing Entities



The Department of Consumer Affairs

The Department of Real Estate

The Department of Insurance

The Department of Social Services

Community and Child Care Facilities:  
Adult Day Programs, Group  
Homes, Adult Residential Facilities,  
Residential Care Facilities for the Elderly,  
and Family Day Care Homes

The Commission on Teacher Credentialing

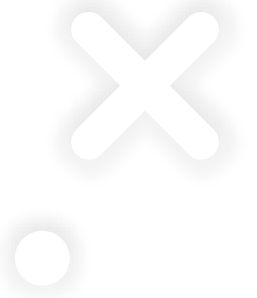
Includes teachers and administrators



# Licensing Entities

**The Department of Consumer Affairs**

# Licensing Entities



## The Department of Consumer Affairs

The Dental Board of California	The Medical Board of California	The California State Board of Optometry
The California State Board of Pharmacy	The Veterinary Medical Board	The California Board of Accountancy
The California Architects Board	The Board for Professional Engineers, Land Surveyors, and Geologists	
The State Board of Barbering and Cosmetology	The Contractors State License Board	The Bureau for Private Postsecondary Education
The Bureau of Household Goods and Services	The Board of Registered Nursing	The Board of Behavioral Sciences
The State Athletic Commission	The Cemetery and Funeral Bureau	The Bureau of Security and Investigative Services
The Court Reporters Board of California	The Board of Vocational Nursing and Psychiatric Technicians	The Division of Investigation
The Landscape Architects Technical Committee	The Bureau of Automotive Repair	The Respiratory Care Board of California
The Acupuncture Board	The Board of Psychology	The Podiatric Medical Board of California
The Physical Therapy Board of California	The Arbitration Review Program	The Physician Assistant Board
The Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board		The California Board of Occupational Therapy
The Osteopathic Medical Board of California	The Dental Hygiene Board of California	The Professional Fiduciaries Bureau
The California Board of Naturopathic Medicine	The Board of Chiropractic Examiners	The Bureau of Real Estate Appraisers
The Structural Pest Control Board	"Any other boards, offices, or officers subject to its jurisdiction by law." (Bus. & Prof. Code, § 101.)	



# Authority to Deny or Discipline Licenses Based on Convictions

Boards and Bureaus within the Department of Consumer Affairs



# Authority to Deny or Discipline (DCA Boards and Bureaus)

License Denial

License Discipline

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## License Denial

### **Under Bus. & Prof. Code § 480:**

A Board can deny a license if, within the last seven years:

- + The applicant was convicted of a substantially related crime; or

## License Discipline

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## License Denial

### **Under Bus. & Prof. Code § 480:**

A Board can deny a license if, within the last seven years:

- + The applicant was convicted of a substantially related crime; or
- + The applicant was released from incarceration following conviction of a substantially related crime.

## License Discipline

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## License Denial

### **Under Bus. & Prof. Code § 480:**

A Board can deny a license if, within the last seven years:

- + The applicant was convicted of a substantially related crime; or
- + The applicant was released from incarceration following conviction of a substantially related crime.

Seven-year limit does not apply for:

- + Serious felonies (Pen. Code § 1192.7)
- + Crimes requiring § 290 registration

## License Discipline

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## License Denial

### **Under Bus. & Prof. Code § 480:**

A Board can deny a license if, within the last seven years:

- + The applicant was convicted of a substantially related crime; or
- + The applicant was released from incarceration following conviction of a substantially related crime.

Seven-year limit does not apply for:

- + Serious felonies (Pen. Code § 1192.7)
- + Crimes requiring § 290 registration

## License Discipline

### **Under Bus. & Prof. Code § 490:**

A Board can discipline a license if the licensee was convicted of a substantially related crime.

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## Failure to Disclose Convictions

Within the Business and Professions Code, the various Boards and Bureaus have dedicated Chapters.

[Expand all](#)

### **Business and Professions Code - BPC**

#### GENERAL PROVISIONS

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5]

DIVISION 1.5. DENIAL, SUSPENSION AND REVOCATION OF LICENSES [475 - 499]

DIVISION 2. HEALING ARTS [500 - 4999.129]

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]

DIVISION 4. REAL ESTATE [10000 - 11506]

DIVISION 5. WEIGHTS AND MEASURES [12001 - 13800]

DIVISION 6. BUSINESS RIGHTS [14000 - 14704]

DIVISION 7. GENERAL BUSINESS REGULATIONS [16000 - 18001]

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.85]

DIVISION 8.5. STOP TOBACCO ACCESS TO KIDS ENFORCEMENT ACT [22950 - 22964]

DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762]

DIVISION 10. Cannabis [26000 - 26325]

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## Failure to Disclose Convictions

Within the Business and Professions Code, the various Boards and Bureaus have dedicated Chapters.

Most of the Chapters are found within:

- + Division 2: Healing Arts, or
- + Division 3: Professions and Vocations Generally

[Expand all](#)

### **Business and Professions Code - BPC**

#### GENERAL PROVISIONS

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5]

DIVISION 1.5. DENIAL, SUSPENSION AND REVOCATION OF LICENSES [475 - 499]

DIVISION 2. HEALING ARTS [500 - 4999.129]

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]

DIVISION 4. REAL ESTATE [10000 - 11506]

DIVISION 5. WEIGHTS AND MEASURES [12001 - 13800]

DIVISION 6. BUSINESS RIGHTS [14000 - 14704]

DIVISION 7. GENERAL BUSINESS REGULATIONS [16000 - 18001]

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.85]

DIVISION 8.5. STOP TOBACCO ACCESS TO KIDS ENFORCEMENT ACT [22950 - 22964]

DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762]

DIVISION 10. Cannabis [26000 - 26325]

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## Failure to Disclose Convictions

Within the Business and Professions Code, the various Boards and Bureaus have dedicated Chapters.

Most of the Chapters are found within:

- + Division 2: Healing Arts, or
- + Division 3: Professions and Vocations Generally

The Boards and Bureaus are also governed by regulations, usually found in Title 16 of the California Code of Regulations

[Expand all](#)

### **Business and Professions Code - BPC**

#### GENERAL PROVISIONS

DIVISION 1. DEPARTMENT OF CONSUMER AFFAIRS [100 - 472.5]

DIVISION 1.5. DENIAL, SUSPENSION AND REVOCATION OF LICENSES [475 - 499]

DIVISION 2. HEALING ARTS [500 - 4999.129]

DIVISION 3. PROFESSIONS AND VOCATIONS GENERALLY [5000 - 9998.11]

DIVISION 4. REAL ESTATE [10000 - 11506]

DIVISION 5. WEIGHTS AND MEASURES [12001 - 13800]

DIVISION 6. BUSINESS RIGHTS [14000 - 14704]

DIVISION 7. GENERAL BUSINESS REGULATIONS [16000 - 18001]

DIVISION 8. SPECIAL BUSINESS REGULATIONS [18400 - 22949.85]

DIVISION 8.5. STOP TOBACCO ACCESS TO KIDS ENFORCEMENT ACT [22950 - 22964]

DIVISION 8.6. CIGARETTE AND TOBACCO PRODUCTS LICENSING ACT OF 2003 [22970 - 22991]

DIVISION 9. ALCOHOLIC BEVERAGES [23000 - 25762]

DIVISION 10. Cannabis [26000 - 26325]

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## **Failure to Disclose Convictions: Example**

Your client is a Marriage and Family Therapist convicted of DUI.

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## Failure to Disclose Convictions: Example

Your client is a Marriage and Family Therapist convicted of DUI.

In addition to § 490, the Board of Behavioral Sciences can discipline a licensee for “unprofessional conduct,” which includes:

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## **Failure to Disclose Convictions: Example**

Your client is a Marriage and Family Therapist convicted of DUI.

In addition to § 490, the Board of Behavioral Sciences can discipline a licensee for “unprofessional conduct,” which includes:

- + “The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.” (§ 4982, subd. (a).)

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## **Failure to Disclose Convictions: Example**

Your client is a Marriage and Family Therapist convicted of DUI.

In addition to § 490, the Board of Behavioral Sciences can discipline a licensee for “unprofessional conduct,” which includes:

- + “The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.” (§ 4982, subd. (a).)
- + “Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.” (§ 4982, subd. (e).)

# Authority to Deny or Discipline (DCA Boards and Bureaus)

## Failure to Disclose Convictions: Example

Your client is a Marriage and Family Therapist convicted of DUI.

In addition to § 490, the Board of Behavioral Sciences can discipline a licensee for “unprofessional conduct,” which includes:

- + “The conviction of a crime substantially related to the qualifications, functions, or duties of a licensee or registrant under this chapter.” (§ 4982, subd. (a).)
- + “Violating, attempting to violate, or conspiring to violate any of the provisions of this chapter or any regulation adopted by the board.” (§ 4982, subd. (e).)

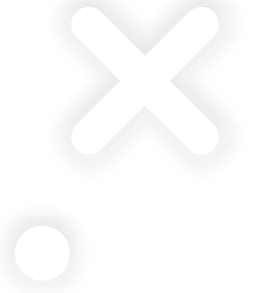
“As used in section 4982 of the code, unprofessional conduct includes, but is not limited to: (g) Failure to report to the board within 30 days any of the following: (1) A conviction of any felony or misdemeanor, which is not subject to Health & Safety Code sections 11357(b), (c), (d), (e) or 11360(b). A conviction includes any verdict of guilty, or plea of guilty or no contest.” (Cal. Code Regs., tit. 16, § 1845, subd. (g)(1).)



# Substantial Relationship

"[A] statute constitutionally can prohibit an individual from practicing a lawful profession only for reasons related to his or her fitness or competence to practice that profession." (*Hughes v. Bd. Of Architectural Examiners* (1998) 17 Cal.4th 763, 788.)

# Substantial Relationship



# Substantial Relationship

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, **if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.**”  
(Bus. & Prof. Code, § 490, subd. (a) [emphasis supplied].)

# Substantial Relationship

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, **if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.**”  
(Bus. & Prof. Code, § 490, subd. (a) [emphasis supplied].)

“Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

# Substantial Relationship

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, **if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.**”  
(Bus. & Prof. Code, § 490, subd. (a) [emphasis supplied].)

“Criteria for determining whether a crime is substantially related to the qualifications, functions, or duties of the business or profession the board regulates shall include all of the following:

- (A) The nature and gravity of the offense.
- (B) The number of years elapsed since the date of the offense.
- (C) The nature and duties of the profession.”

(Bus. & Prof. Code, § 493, subd. (b)(1).)

# Substantial Relationship

Most Boards and Bureaus define substantial relationship in their regulations.  
For example...

# Substantial Relationship

Most Boards and Bureaus define substantial relationship in their regulations. For example...

For registered nurses,

“... a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or certificate under the Nursing Practice Act (Chapter 6 of Division 2 of the code), **if to a substantial degree it evidences the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by the license or certificate, or in a manner consistent with the public health, safety, or welfare.**”

(Cal. Code Regs., tit. 16, § 1444, subd. (a) [emphasis supplied].)

# Substantial Relationship

Most Boards and Bureaus define substantial relationship in their regulations. For example...

For registered nurses,

“... a crime, professional misconduct, or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license or certificate under the Nursing Practice Act (Chapter 6 of Division 2 of the code), **if to a substantial degree it evidences the present or potential unfitness of a person holding a license or certificate to perform the functions authorized and/or mandated by the license or certificate, or in a manner consistent with the public health, safety, or welfare.**”

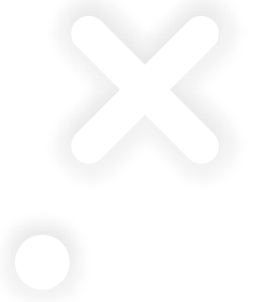
(Cal. Code Regs., tit. 16, § 1444, subd. (a) [emphasis supplied].)

For licensed contractors, substantially related crimes include those:

“involving dishonesty, fraud, deceit, or theft with the intent to substantially benefit oneself or another or to substantially harm another”;  
“involving physical violence against persons”; or  
“that indicate a substantial or repeated disregard for the health, safety, or welfare of the public.”

(Cal. Code Regs., tit. 16, § 868, subd. (c)(3)-(5).)

# Substantial Relationship: Examples



# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

**Felony soliciting subornation of perjury is substantially related to qualifications as physician.** (*Krain v. Medical Bd.* (1999) 71 Cal.App.4th 1416, 1424-1425.)

# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

**Felony soliciting subornation of perjury is substantially related to qualifications as physician.** (*Krain v. Medical Bd.* (1999) 71 Cal.App.4th 1416, 1424-1425.)

**Felony conviction for filing false/fraudulent insurance claims provides sufficient basis for license discipline against a physician.** (*Matanky v. Bd. of Medical Examiners* (1978) 79 Cal. App.3d 293, 297-301.)

# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

**Felony soliciting subornation of perjury is substantially related to qualifications as physician.** (*Krain v. Medical Bd.* (1999) 71 Cal.App.4th 1416, 1424-1425.)

**Felony conviction for filing false/fraudulent insurance claims provides sufficient basis for license discipline against a physician.** (*Matanky v. Bd. of Medical Examiners* (1978) 79 Cal. App.3d 293, 297-301.)

**"If [real estate licensee]'s offense reflects unfavorably on his honesty, it may be said to be substantially related to his qualifications."** (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.)

# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

**Felony soliciting subornation of perjury is substantially related to qualifications as physician.** (*Krain v. Medical Bd.* (1999) 71 Cal.App.4th 1416, 1424-1425.)

**Felony conviction for filing false/fraudulent insurance claims provides sufficient basis for license discipline against a physician.** (*Matanky v. Bd. of Medical Examiners* (1978) 79 Cal. App.3d 293, 297-301.)

**"If [real estate licensee]'s offense reflects unfavorably on his honesty, it may be said to be substantially related to his qualifications."** (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.)

**Willful infliction of corporal injury on defendant's cohabitant/mother of his child is substantially related to the qualifications, functions, or duties of a real estate salesperson.** (*Danley v. Davi* (2009) 180 Cal.App.4th 447, 466.)

# Substantial Relationship: Examples

**Income tax fraud reflects on physician's qualifications to practice medicine.** (*Windham v. Bd. of Medical Quality Assurance* (1980) 104 Cal.App.3d 461, 469-470.)

**Felony soliciting subornation of perjury is substantially related to qualifications as physician.** (*Krain v. Medical Bd.* (1999) 71 Cal.App.4th 1416, 1424-1425.)

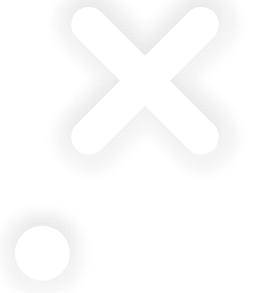
**Felony conviction for filing false/fraudulent insurance claims provides sufficient basis for license discipline against a physician.** (*Matanky v. Bd. of Medical Examiners* (1978) 79 Cal. App.3d 293, 297-301.)

**"If [real estate licensee]'s offense reflects unfavorably on his honesty, it may be said to be substantially related to his qualifications."** (*Golde v. Fox* (1979) 98 Cal.App.3d 167, 176.)

**Willful infliction of corporal injury on defendant's cohabitant/mother of his child is substantially related to the qualifications, functions, or duties of a real estate salesperson.** (*Danley v. Davi* (2009) 180 Cal.App.4th 447, 466.)

**Disturbing the peace is substantially related to the qualifications, functions, or duties of a licensed alarm company qualified manager.** (*Lone Star Security & Video, Inc., v. Bureau of Security & Investigative Services* (2009) 176 Cal.App.4th 1249, 1257-1258.)

# Rehabilitation



# Rehabilitation

“A board shall not deny a license based in whole or in part on a conviction without considering evidence of rehabilitation submitted by an applicant.” (Bus. & Prof. Code, § 481, subd. (c).)

“Rehabilitation ... is a ‘state of mind’ and the law looks with favor upon rewarding with the opportunity to serve, one who has achieved ‘reformation and regeneration.’” (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.)





# Rehabilitation

**License discipline is a two-step process:**

**First, is there cause for discipline (such as a substantially related conviction)?**



# Rehabilitation

**License discipline is a two-step process:**

**First, is there cause for discipline (such as a substantially related conviction)?**

**Second, if there is cause for discipline, what is the appropriate level of discipline?**

# Rehabilitation

**License discipline is a two-step process:**

**First, is there cause for discipline (such as a substantially related conviction)?**

**Second, if there is cause for discipline, what is the appropriate level of discipline?**

**License discipline typically consists of:**

- Public reproof;**
- Stayed revocation with probationary terms;**
- Suspension; or**
- Revocation**

**The level of discipline will depend on rehabilitation.**

# Rehabilitation

Most licensing entities maintain specific published criteria to evaluate the rehabilitation of licensees convicted of substantially related crimes.

For example, the Board of Vocational Nursing and Psychiatric Technicians maintains the following list:

# Rehabilitation

**Most licensing entities maintain specific published criteria to evaluate the rehabilitation of licensees convicted of substantially related crimes.**

**For example, the Board of Vocational Nursing and Psychiatric Technicians maintains the following list:**

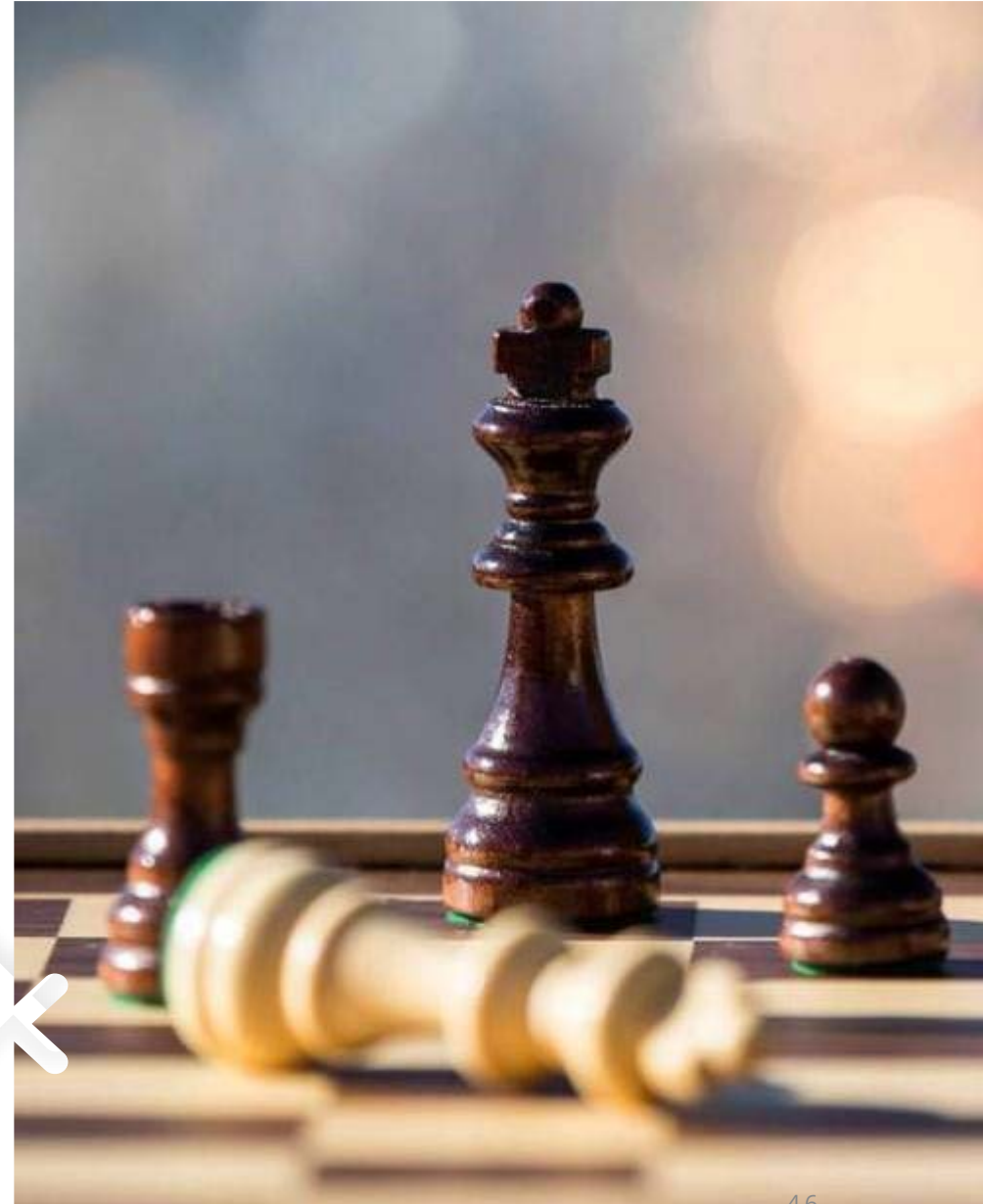
- (1) Nature and gravity of the crime(s), professional misconduct, or act(s) under consideration.
- (2) Actual or potential harm to the public.
- (3) Actual or potential harm to any patient.
- (4) Overall disciplinary record.
- (5) Overall criminal actions taken by any federal, state or local agency or court.
- (6) Prior warnings on record or prior remediation.
- (7) Number and/or variety of current violations.
- (8) Mitigation evidence.
- (9) In case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.
- (10) Time passed since the crime(s), professional misconduct, or act(s) occurred.
- (11) If applicable, evidence of proceedings to dismiss a conviction pursuant to Penal Code section 1203.4.
- (12) Cooperation with the Board and other law enforcement or regulatory agencies.

(13) Other rehabilitation evidence

(Cal. Code Regs., tit. 16, § 2522, subd. (b).)

# Expungement

- + Effect on license applicants
- + Effect on licensees
- + Other post-judgement relief:  
Certificates of Rehabilitation and  
Clemency or Pardon



# Expungement: Applicable Statutes

## Penal Code Section

### **1203.4**

1203.4a

1203.41

1203.42

1203.425

## Applicability

### **Sentence completed/probation ended**

Misdemeanors with no probation/infractions

Felony convictions

Sentences before Penal Code § 1170, subd. (h)

DOJ monthly review/automatic conviction relief

# Expungement

Penal Code § 1203.4, subdivision (a) provides for relief if:

1. Probation is over, and
2. No pending charges



## Sacramento Superior Court 720 Ninth Street, Sacramento, California 95814

CR-180

<b>Attorney or Party Without Attorney</b>		<b>State Bar No.:</b>		<b>FOR COURT USE ONLY</b>	
NAME: _____					
FIRM NAME: _____					
STREET ADDRESS: _____					
CITY, STATE, ZIP: _____					
TELEPHONE NO.: (____) _____		FAX NO.: (____) _____			
E-MAIL ADDRESS: _____					
ATTORNEY FOR (Name): _____					
DEFENDANT DRIVER'S LICENSE NUMBER: _____					
<b>PETITION FOR DISMISSAL</b>					
PENAL CODE SECTION §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, 1203.49					
THE PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: _____					
<b>CASE NUMBER:</b>		<b>DATE OF BIRTH:</b>			
<b>COURT DATE:</b> <small>(For Court Use Only)</small>		<b>TIME:</b>		<b>DEPT.:</b>	

1. ☐ I am the attorney for the above named defendant or ☐ I am the defendant in the above entitled action.  
On (date): \_\_\_\_\_, the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following:

Offense (Specify each offense in the case noted above)	Code	Section	Type of offense: (Felony; Misdemeanor; Infraction)	Eligible for reduction to misdemeanor under Penal Code § 17(b) (Select Yes or No)	Eligible for reduction to infraction under Penal Code 17(d)(2) (Select Yes or No)
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

If additional space is needed for listing offenses, use Attachment to Judicial Council Form (form MC-025).

2. ☐ **Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)**  
Probation was granted on the terms and conditions set forth in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply):
- ☐ has fulfilled the conditions of probation for the entire period thereof;
  - ☐ has been discharged from probation prior to the termination of the period thereof;
  - ☐ should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)
3. ☐ **Misdemeanor or infraction with sentence other than probation (Pen. Code § 1203.4a)**

# Expungement

Penal Code § 1203.4, subdivision (a) provides for relief if:

1. Probation is over, and
2. No pending charges

When petition is successful, defendant can:

Withdraw their guilty or no contest plea, or have their verdict set aside;

Request that the Court dismiss the accusation or information; and

**“Be released from all penalties and disabilities resulting from the offense of which they have been convicted.”** (*Id.*, subd. (a)(1).)



## Sacramento Superior Court 720 Ninth Street, Sacramento, California 95814

CR-180

Attorney or Party Without Attorney		State Bar No:		FOR COURT USE ONLY	
NAME:					
FIRM NAME:					
STREET ADDRESS:					
CITY, STATE, ZIP:					
TELEPHONE NO.:		FAX NO.:			
E-MAIL ADDRESS:					
ATTORNEY FOR (Name):					
DEFENDANT DRIVER'S LICENSE NUMBER:					
PETITION FOR DISMISSAL					
PENAL CODE SECTION §§ 17(b), 17(d)(2), 1203.4, 1203.4a, 1203.4b, 1203.41, 1203.42, 1203.43, 1203.49					
THE PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:					
CASE NUMBER:		DATE OF BIRTH:			
COURT DATE:		TIME:		DEPT.:	
(For Court Use Only)					

1. ☐ I am the attorney for the above named defendant or ☐ I am the defendant in the above entitled action.  
On (date): , the petitioner (the defendant in the above-entitled criminal action) was convicted of a violation of the following:

Offense (Specify each offense in the case noted above)	Code	Section	Type of offense: (Felony; Misdemeanor; Infraction)	Eligible for reduction to misdemeanor under Penal Code § 17(b) (Select Yes or No)	Eligible for reduction to infraction under Penal Code 17(d)(2) (Select Yes or No)
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Fel <input type="checkbox"/> Mis <input type="checkbox"/> Inf	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

If additional space is needed for listing offenses, use Attachment to Judicial Council Form (form MC-025).

2. ☐ Felony or misdemeanor with probation granted (Pen. Code, § 1203.4)  
Probation was granted on the terms and conditions set forth in the docket of the above-entitled court; the petitioner is not serving a sentence for any offense, nor on probation for any offense, nor under charge of commission of any crime, and the petitioner (check all that apply):
- ☐ has fulfilled the conditions of probation for the entire period thereof;
  - ☐ has been discharged from probation prior to the termination of the period thereof;
  - ☐ should be granted relief in the interests of justice. (Please note: You must explain why granting a dismissal would be in the interests of justice. You may complete and attach the Attached Declaration (form MC-031) or submit other relevant documents.)
3. ☐ Misdemeanor or infraction with sentence other than probation (Pen. Code § 1203.4a)

# Expungement: Effect on Licensing Cases

License Applicants (Bus. & Prof. Code, § 480)

Licensees (Bus. & Prof. Code, § 490)

# Expungement: Effect on Licensing Cases

## License Applicants (Bus. & Prof. Code, § 480)

“Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.” (*Id.*, subd. (c).)

## Licensees (Bus. & Prof. Code, § 490)

# Expungement: Effect on Licensing Cases

## License Applicants (Bus. & Prof. Code, § 480)

“Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, **or on the basis of the acts underlying the conviction**, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.” (*Id.*, subd. (c).)

## Licensees (Bus. & Prof. Code, § 490)

# Expungement: Effect on Licensing Cases

## License Applicants (Bus. & Prof. Code, § 480)

“Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, **or on the basis of the acts underlying the conviction**, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.” (*Id.*, subd. (c).)

An expungement order **“order does not relieve [probationers] of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application . . . for licensure by any state or local agency . . . .”**  
(Pen. Code, § 1203.4, subd. (a)(1).)

## Licensees (Bus. & Prof. Code, § 490)

# Expungement: Effect on Licensing Cases

## License Applicants (Bus. & Prof. Code, § 480)

“Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, **or on the basis of the acts underlying the conviction**, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement.” (*Id.*, subd. (c).)

An expungement order **“order does not relieve [probationers] of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application . . . for licensure by any state or local agency . . . .”** (Pen. Code, § 1203.4, subd. (a)(1).)

## Licensees (Bus. & Prof. Code, § 490)

“An action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code.” (*Id.*, subd. (c).)

# Other Post-Judgement Relief

“Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained **a certificate of rehabilitation** under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted **clemency or a pardon by a state or federal executive**, or has made a showing of rehabilitation pursuant to Section 482.” (Bus. & Prof. Code, § 480, subd. (b) [emphasis supplied].)

# Questions?





# Thank you!

Sean Gavin, Administrative Law Judge  
Jennifer Mouzis, Criminal Defense Attorney